

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Assessment and Collection)	MD Docket No. 04-73
of Regulatory Fees for)	
Fiscal Year 2004)	

**COMMENTS OF
THE NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

The National Cable & Telecommunications Association (“NCTA”) hereby submits its comments in the above-captioned proceeding. NCTA is the principal trade association of the cable television industry in the United States. Its members include owners and operators of cable television systems serving more than 90 percent of the nation’s cable television customers, more than 200 program networks, equipment suppliers and others affiliated with the cable television industry. NCTA’s members also provide high speed access to the Internet and other services.

INTRODUCTION

Pursuant to Congressional mandate, the Commission proposes to collect a total of \$272,958,000 in regulatory fees from licensees and other regulatees for Fiscal Year 2004.¹ The fees are designed to recover the regulatory costs associated with the Commission’s enforcement, policy and rulemaking, user information, and international activities.² The Commission proposes

¹ Assessment and Collection of Regulatory Fees for Fiscal Year 2004, MD Docket No. 04-73, Notice of Proposed Rulemaking, rel. March 29, 2004 at ¶ 1.

² 47 U.S.C. § 159(a).

to increase regulatory fees by 1.5 percent across the board for each fee category in order to meet the increased fees required by Congress from FY 2003 to FY 2004.

With respect to cable systems, the Commission proposes not only the 1.5 percent increase but an additional 4.8 percent increase in the annual per subscriber fee, totaling an approximately 6 percent increase. Cable operators will now be required to pay 70 cents per subscriber, up from 66 cents per subscriber. CARS station fees will increase from \$90 to \$135 per station.

This year the Commission also proposes to modify the method by which cable operators calculate and report their regulatory fee payments. Rather than report subscriber counts for every community unit identifier (“CUID”), operators would base their regulatory fee payments on aggregate subscriber information in publicly available data sources. The primary data sources the Commission proposes to rely on this year are statistics publicized on NCTA’s website and the Broadcasting and Cable Yearbook 2003-2004, published by Reed Elsevier, Inc.

As discussed below, the cable industry supports the Commission’s efforts to streamline the regulatory fee process by utilizing aggregate subscriber data. However, NCTA urges the Commission to modify its proposal to not only rely on third party data sources, but also permit cable operators the option to self-certify their subscriber count where there are discrepancies in published sources.

DISCUSSION

The cable industry commends the Commission for proposing a plan to reduce the administrative burden on cable operators in complying with regulatory fee assessment and collection procedures. Requiring operators to report subscriber information for individual community units has been an onerous process for MSOs, particularly large companies that may serve hundreds, even thousands, of franchise areas. Some cable operators have reported to NCTA that it may take up to seven people full-time over several weeks to collect, verify, and format end-of-year subscriber totals by CUID. By eliminating the requirement that cable operators break down subscriber counts by individual community, the Commission will alleviate a burdensome administrative process. NCTA, therefore, endorses the Commission's proposal to move to a regulatory fee scheme for cable based on the reporting of aggregate subscriber data on FCC Form 159.

However, NCTA believes that the regulatory fee scheme should not rely exclusively on data from third party sources. As noted above, under the FCC's proposal, companies would continue to file Remittance Advice FCC Form 159 but they would only have to report their aggregate subscriber count on a single line entry, rather than report the counts for every CUID that they serve. The Commission instructs companies listed on NCTA's website list of the 25 largest MSOs to look to this data source to obtain an aggregate subscriber count. MSOs and other cable operators not listed by NCTA would refer to the Broadcasting and Cable Yearbook and base their fee obligations on the aggregate subscriber information reported in the Yearbook. If not listed in either source, a cable operator would then certify its aggregate basic subscriber count as of December 31, 2003 on FCC Form 159 with the understanding that the FCC would corroborate the certified counts with other publicly available data sources (such as Cable TV

Investor, published by Kagan Research, LLC, and Television and Cable Factbook, published by Warren Communications).

NCTA's website list of the 25 largest MSOs is based on data from Kagan Research's Cable TV Investor. This information is generally very reliable. But a case could arise where a company's own subscriber count differs from that reported in Cable TV Investor. In that event, NCTA believes that cable operators should have the opportunity under the rules to correct the discrepancy by self-certifying their own subscriber count as of a date certain on FCC Form 159. This will ensure accuracy in the fee collection process.

With respect to small cable operators, who may be listed in the Broadcasting and Cable Yearbook, the reason to allow self-certification goes more to the bottom line. Some small systems do not even subscribe to Broadcasting and Cable Yearbook. The cost of the 2004 edition is \$795. These operators should be able to self-certify on FCC Form 159 and avoid the unnecessary annual expense of purchasing the Yearbook, especially where they have no other need for it in their operations.

The concept of self-certification is commonplace in the Commission's practice and procedures for a variety of regulated entities.³ Moreover, as the Commission notes in the NPRM, it will be able to corroborate certified counts to a large degree with other publicly available data sources, such as the Broadcasting and Cable Yearbook, Cable TV Investor, and the Television and Cable Factbook, published by Warren Communications.⁴ Self-certification

³ See e.g., FCC Form 301, Application for Construction Permit for Commercial Broadcast Station; FCC Form 302-AM, Application for AM Broadcast Station License; FCC Form 302-CA, Application for Class A Television Broadcast Station Construction Permit or License; see also FCC Form 326, Cable Television Annual Financial Report, which previously required all cable operators to report revenues and expenses, balance sheet information and supplemental accounting information.

⁴ Notice at ¶ 15.

simply provides another means to ensure that a company's annual regulatory fee is based on accurate statistical information.

In sum, NCTA urges the Commission to adopt its proposal to assess regulatory fees for cable systems based on the submission of aggregate subscriber information on FCC Form 159. We also urge the Commission to provide under the rules that all cable operators have the option to self-certify their aggregate subscriber count on FCC Form 159 if a company determines that the subscriber information reflected in the publicly-available data sources referenced by the Commission is inaccurate.

Respectfully submitted,

/s/ Daniel L. Brenner

Daniel L. Brenner
Loretta P. Polk
National Cable & Telecommunications
Association
1724 Massachusetts Avenue, NW
Washington, D.C. 20554

April 21, 2004